

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

CHARLES LIVELY,

Plaintiff,

v.

Civil Action No. 2:13-28759

DAVID BALLARD,  
Warden of Mount Olive Correctional Complex, and  
JAMES RUBENSTEIN,  
Commissioner of West Virginia Division of Corrections, and  
JAMES MCCLOUD,  
Captain Mount Olive Correctional Complex, and  
RICHARD COLEMAN,  
Corporal at Mount Olive Correctional Complex, and  
RUSSELL MATHENEY,  
Captain at Mount Olive Correctional Complex, and  
JARROD DAWSON,  
Corporal at Mount Olive Correctional Complex, and  
CHAD RICHMOND,  
Correctional Officer II at Mount Olive Correctional Complex, and  
PHILIP LEASURE,  
Correctional Officer II at Mount Olive Correctional Complex, and  
JUSTIN COTTRELL,  
Correctional Officer II at Mount Olive Correctional Complex,

Defendants.

MEMORANDUM OPINION AND ORDER

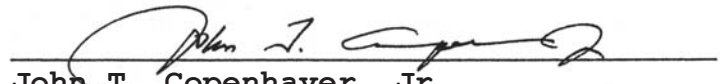
The court having received the Proposed Findings and Recommendation ("PF&R") of the United States Magistrate Judge filed on August 4, 2015, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B); and having reviewed the record in this proceeding; and there being no objections filed by either the plaintiff or the defendants to the PF&R; and it appearing proper

so to do, it is ORDERED that the findings and conclusions made in the PF&R be, and they hereby are, adopted by the court.

It is, accordingly, ORDERED that defendants' motion to dismiss Counts XII, XIII, and XIX of plaintiff's amended complaint be, and hereby is, granted. It is further ORDERED that the residue of this action remain on referral with the magistrate judge pursuant to the standing order entered November 13, 2013.

The Clerk is directed to forward copies of this written opinion and order to the plaintiff, all counsel of record, and the magistrate judge.

DATED: August 31, 2015

  
John T. Copenhaver, Jr.  
United States District Judge